Rules Governing the Maine Certification of Healthcare Cooperative Agreements

The Hospital and Health Care Provider Cooperation Act,
22 M.R.S.A. Chapter 405-A

10-144 C.M.R. Ch. 500
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Purpose. These rules, promulgated pursuant to the Hospital and Health Care Provider Cooperation Act, 22 M.R.S.A. Chapter 405-A, provide a voluntary procedure for state review and continuing supervision of cooperative agreements through the issuance of a certificate of public advantage (the certificate). It is the intent of the Maine Legislature that a certificate provide parties to a cooperative agreement state action immunity under applicable federal antitrust laws. See 22 M.R.S.A. §1842.

SECTION 1. DEFINITIONS. As used in these rules, unless the context indicates otherwise, the following terms have the following meanings:

1.1 ANTITRUST LAW means federal or state laws that prohibit contracts, combinations or conspiracies in restraint of trade; monopolies; mergers and acquisitions which tend to substantially reduce competition; and unfair methods of competition, as well as unfair acts and practices in the conduct of trade or commerce. See 10 M.R.S.A. Chapter 201, and 15 U.S.C. chapter 1.

1.2 CERTIFICATE OF PUBLIC ADVANTAGE ("COPA" or the "CERTIFICATE") (also referred to as a "certified cooperative agreement") means the written approval of a cooperative agreement issued by the department with the intent to provide state action immunity to the parties to the agreement under applicable federal antitrust laws. See 22 M.R.S.A. §§ 1844.

1.3 CERTIFIED COOPERATIVE AGREEMENT. See Section 1.2 of these rules. See 22 M.R.S.A. §1848 (5).

1.4 COOPERATIVE AGREEMENT means an agreement that names the parties to the agreement and describes the nature and scope of the cooperation and is:

1.4.1 An agreement entered into by the following:

1.4.1.1 two or more hospitals; or

1.4.1.2 two or more healthcare providers.

1.4.1.3 For the purposes of these rules, an agreement between one or more hospitals *and* one or more healthcare providers is not a cooperative agreement. See 22 M.R.S.A. §1843 (1).

and

1.4.2 An agreement to accomplish the following:

1.4.2.1 The sharing, allocation, or referral of the following:

1.4.2.1.1 patients,

1.4.2.1.2 personnel;

1.4.2.1.3 instructional programs;

1.4.2.1.4 medical or mental health services;

1.4.2.1.5 support services;

1.4.2.1.6 facilities; or

1.4.2.1.7 medical, diagnostic or laboratory facilities, procedures, equipment or other services traditionally offered by hospitals or healthcare providers. See 22 M.R.S.A. §1843 (1) (A).

1.4.2.2 The coordinated negotiation and contracting with payors or employers; see 22 M.R.S.A. §1843 (1) (B). or

1.4.2.3 The merger of two or more hospitals; or two or more health care providers. See 22 M.R.S.A. §1843 (1) (C).

1.5 COVERED ENTITY means a hospital or other healthcare provider. See 22 M.R.S.A. §1843 (2).

1.6 DEPARTMENT (DHHS) means the Maine Department of Health and Human Services.

1.7 ECONOMIST, for the purposes of these rules, means an individual experienced in the field of healthcare economics by education, training and experience with knowledge of economic analysis principles and techniques as they relate to antitrust issues and healthcare cooperative agreements.

1.8 ENFORCEABLE CONDITIONS, for the purposes of these rules, means reasonably enforceable conditions that the department determines are subject to future measurement or evaluation in order to assess compliance with the conditions. See 22 M.R.S.A. §1844 (5) (C).

1.9 HEALTHCARE PROVIDER means the following:

1.9.1 a licensed community mental health services provider;

1.9.2 a physician licensed under Title 32, chapter 36 or 48 and operating in this State; or

1.9.3 a corporation or business entity engaged primarily in the provision of physician healthcare services. See 22 M.R.S.A. §1843 (3).

1.10 HEALTH SERVICE AREA means the proposed primary and secondary service areas for both inpatients and outpatients of all facilities or entities involved in the cooperative agreement.

1.11 HOSPITAL means:

1.11.1 An acute care institution licensed and operating in this State as a hospital pursuant to 22 M.R.S.A. §1811 or the parent corporation of such an institution; or

1.11.2 A hospital subsidiary or hospital affiliate in the State that provides medical services or medically related diagnostic and laboratory services or engages in ancillary activities supporting those services. See 22 M.R.S.A. §1843 (4).

1.12 MERGER means a transaction by which ownership or control over substantially all of the stock, assets or activities of one or more covered entities is placed under the control of another covered entity.

1.12.1 For the purposes of these rules, a merger between one or more hospitals *and* one or more healthcare providers is not a merger. See 22 M.R.S.A. §1843 (5).

1.13 PERSON means an individual, trust, estate, partnership, corporation, association, joint stock company, insurance company or similar entity, and the State or a political subdivision or instrumentality of the State, including a municipal corporation of the State; or any other legal entity recognized by State law.

1.14 RELATED PARTY, for the purposes of these rules, includes but is not limited to the following:

1.14.1 A COPA applicant's father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, the spouse of any of the above, and a COPA applicant's spouse;

1.14.2 Any person where 25 percent or more of any class of voting securities is owned, controlled or held in the aggregate by any person(s) referred to in Section 1.13 of these rules;

1.14.3 Any person referred to in Sections 1.13 of these rules that serves as a trustee, general partner, limited partner, managing member, or director of a COPA applicant;

1.14.4 Any person acting on behalf of any person referred to in Sections 1.13 of these rules; and

1.14.5 Any corporation or its parent or subsidiary corporation that owns, is owned by, or otherwise controls or is controlled by, a party to the COPA application.

1.15 UNANTICIPATED CIRCUMSTANCES, for the purposes of these rules, includes but is not limited to the failure to realize anticipated benefits of the agreement or the realization of unanticipated anticompetitive effects from the cooperative agreement. See 22 M.R.S.A. §1848 (5) (A)

SECTION 2. SCOPE OF THE CERTIFICATE OF PUBLIC ADVANTAGE

2.1 Voluntary Procedure. These rules establish a voluntary procedure that is available to covered entities. See 22 M.R.S.A. §1843 (2).

2.2 Authority. A covered entity may negotiate and enter into a cooperative agreement with another covered entity and may file an application for a certificate with the department pursuant to these rules. See 22 M.R.S.A. §1844 (1).

2.3 Compliance with Other Laws and Rules. These rules do not exempt covered entities from compliance with laws governing certificates of need or other applicable federal and state laws and rules. See 22 M.R.S.A. §1849 (3).

2.4 Coordinated Negotiation and Contracting with Payors or Employers Prohibited. The department may not issue a certificate for a cooperative agreement that allows coordinated negotiation and contracting with payors or employers unless such negotiation and contracting are ancillary to clinical or financial integration. See 22 M.R.S.A. §1844 (5).

2.5 Validity: Lawful Conduct. Notwithstanding 5 M.R.S.A chapter 10, 10 M.R.S.A chapter 201, or any other provision of law:

2.5.1 A cooperative agreement for which a certificate has been issued is a lawful agreement.

2.5.2 If the parties to a cooperative agreement file an application for a certificate with the department, the conduct of the parties in negotiating and entering into a cooperative agreement is lawful conduct.

2.5.3 These rules do not provide immunity to any person for conduct in negotiating and entering into a cooperative agreement for which an application for a certificate is not filed. See 22 M.R.S.A. §1849 (1).

2.6 Invalid Cooperative Agreement. In an action by the Attorney General under Section 7.4 of these rules, if the Superior Court determines that the COPA applicants have not established by a preponderance of the evidence that the likely benefits resulting from a cooperative agreement outweigh any disadvantages attributable to any potential reduction in competition resulting from the agreement, the cooperative agreement is invalid and has no further force or effect when the judgment becomes final after the time for appeal has expired or the judgment of the Superior Court is affirmed on appeal. See 22 M.R.S.A. §1849 (2).

2.7 Contract Disputes. A dispute between parties to a cooperative agreement concerning its meaning or terms is governed by the normal principles of contract law. See 22 M.R.S.A. §1849 (4).

2.8 Withdrawal of COPA Application. The parties to a cooperative agreement may withdraw their COPA application and thereby terminate all proceedings under these rules as follows:

2.8.1 Without the approval of the department, any party or the Superior Court at any time prior to the filing of an answer or responsive pleading in a court action under 7.4 of these rules, or prior to entry of a consent decree under Section 7.9 of these rules; or

2.8.2 Without the approval of the department or any party at any time prior to the issuance of a final decision by the department under Section 5.3 of these rules, if a court action has not been filed under Section 7.4 of these rules. See 22 M.R.S.A. §1844 (4) (E).

2.9 Termination of Cooperative Agreement: Surrender of the Certificate. These rules do not prohibit certificate holders from terminating their cooperative agreement by mutual agreement; by consent decree or court determination; or by surrendering their certificate to the department.

2.9.1 Any certificate holder that terminates the agreement must:

2.9.1.1 file a notice of termination with the department within 30 calendar days after the termination date;

2.9.1.2 surrender the certificate to the department; and

2.9.1.3 submit copies to the Attorney General and the Governor's Office of Health Policy and Finance or its successor at the time the notice of termination is submitted to the department. See 22 M.R.S.A. §1849 (5).

2.10 Intervention. The Office of the Attorney General and the Governor's Office of Health Policy and Finance or its successor may intervene as a right in any proceeding before the department that is governed by these rules.

2.10.1 Except as provided in Section 2.10 of these rules, intervention is governed by the provisions of 5 M.R.S.A. §9054. Except as provided in Section 2.10 of these rules, any person requesting intervention must do so within ten (10) business days of the date of publication of the public notice set forth in Section 3.4 of these rules. See 22 M.R.S.A. §1844 (6).

2.11 Fees.

2.11.1 Application Fee. The application fee for a certificate is governed by these rules.

2.11.1.1 The application fee for a certificate that involves a merger of 2 or more hospitals, each of which has 50 or more beds, is $10,000.

2.11.1.2 The application fee is $2,500 for a COPA application filed by health care providers, or hospitals that are not subject to the $10,000 fee in Section 2.11.1.1 of these rules.

2.11.1.3 The department shall deposit all funds received under Sections 2.11.1.1 and 2.11.1.2 of these rules into a nonlapsing dedicated revenue account to be used only by the Attorney General for the payment of the cost of experts and consultants in connection with reviews conducted pursuant to these rules. See 22 M.R.S.A. §1851.

2.11.2 Continuing Supervision Fee. The department may include a condition in the issued certificate that requires the certificate holders to submit fees sufficient to fund expenses for consultants or experts necessary for the continuing supervision required under Section 6 of these rules.

2.11.2.1 The fees must be paid at the time of any review conducted under Section 6 of these rules.

2.11.2.2 The total amount charged to the certificate holders for continuing supervision may not exceed $5,000 for mergers involving hospitals with 50 or more beds, and $2,500 for all other cooperative agreements. See 22 M.R.S.A. §1844 (5) (D).

2.11.2.3 The department shall deposit all funds received under Section 2.11.2 of these rules into a nonlapsing dedicated revenue account to be used only by the Attorney General to fund expenses for consultants or experts necessary for the required continuing supervision. See 22 M.R.S.A. §1851.

2.11.3 Annual Hospital Assessment Fee. Except for state-operated mental health hospitals, any hospital licensed by the department is subject to an annual assessment fee pursuant to these rules.

2.11.3.1 The amount of the assessment fee must be based upon each hospital's gross patient service revenue.

2.11.3.2 The aggregate amount raised by assessment fees may not exceed $200,00 for any fiscal year.

2.11.3.3 Each hospital's annual assessment fee is a prorated amount of the aggregate amount that may be raised by assessment fees during any fiscal year, in compliance with Section 2.11.3.2of these rules, based on each hospital's gross patient service revenue.

2.11.3.4 The department shall deposit funds collected under Section 2.11.3 of these rules into a dedicated revenue account. Funds remaining in the account at the end of each fiscal year do not lapse but carry forward into subsequent years. Funds deposited into the account must be allocated to carry out the purposes of these rules. See 22 M.R.S.A. §1850.

2.12 Other Charges.

2.12.1 **Copy Charge.** A reasonable amount may be charged by the department to any person requesting a copy of any part of the public record including the application and the letter of intent to cover the department's copying and postage costs.

2.12.2 **Cost of Public Notices.** Applicants or certificate holders are responsible for reimbursing the department for costs, not to exceed $3,000 per COPA application or issued certificate per fiscal year, associated with public notices, including notice of the filing of the letter of intent, if applicable; filing of the application; and notice of a public hearing, if applicable.

2.12.3 **Additional Supervisory Activities.** Certificate holders are responsible for costs, not to exceed $3,000 per issued certificate per fiscal year, associated with additional supervisory activities.

2.12.4 **Public Hearing.** Applicants or certificate holders are responsible for costs, not to exceed $3,000 per COPA application or issued certificate per fiscal year, associated with public hearings, including hearings for additional supervisory activities.

2.12.5 **Transcription of Public Hearing Record.** The electronic recording of a public hearing, if held, shall be transcribed if the department's final decision is appealed to the court system. The transcription shall be paid for by the person requesting the appeal unless a court orders otherwise.

2.12.6 **Associated Costs.** Applicants and certificate holders are responsible for non-personnel related department costs, not to exceed $3,000 per

COPA application or issued certificate per fiscal year, associated with carrying out the provisions of these rules,

2.13 Record Keeping. The department shall maintain records of all applications for a certificate of public advantage, together with the records of all submissions, comments, reports and department proceedings with respect to those applications, certificates approved by the department, continuing supervision and any other proceedings under these rules. See 22 M.R.S.A. §1846.

2.14 Interested Parties Mailing List. The department shall maintain an interested parties mailing list of persons who request notification of COPA activities and copies of COPA documents. See 22 M.R.S.A. §§ 1844 (3) (B) and (4) (F). The following information must be submitted on a department approved form when requesting placement on the COPA interested parties mailing list:

2.14.1 Name and mailing address;

2.14.2 Name of business or affiliation, if any;

2.14.3 Telephone number; and facsimile number;

2.14.4 Email address; and

2.14.5 any other contact information requested by the department.

Section 3. COPA APPLICATION PROCESS

3.1 Forms and Format.

3.1.1 Department-approved Forms. COPA applicants must use the department-approved forms for a COPA letter of intent and COPA application.

3.1.2 Documentation. Documentation submitted with the letter of intent or the application must be unbound, on 8 ½ x 11 paper, one sided only, and three hole punched on the left side, unless impracticable.

3.2 Letter of Intent: Mergers Only. At least 45 days prior to filing a COPA application for a merger, the parties to the merger agreement must file a department-approved letter of intent form and all required documentation describing the proposed merger with the department's Division of Licensing and Regulatory Services.

3.2.1 Copies of Letter of Intent. The applicant must submit one copy of the letter of intent and all accompanying materials to the Office of the Attorney General and to the Governor's Office of Health Policy and Finance or its successor at the time the letter of intent is filed with the department's Division of Licensing and Regulatory Services. See 22 M.R.S.A. §1844 (2) (A).

3.2.2 Content of Letter of Intent. The letter of intent must include at least the following information:

3.2.2.1 A brief description, including the location of the covered entities and the parties to the cooperative agreement;

3.2.2.2 The name, address and contact information of all parties to the cooperative agreement;

3.2.2.3 The anticipated date of submission of a COPA application; and

3.2.2.4 The anticipated date of the initiation of the proposed merger.

3.2.3 Expiration of Letter of Intent. A letter of intent expires 12 months after the date of receipt by the department, if no COPA application was timely filed with the department.

3.2.4 Resubmission of Letter of Intent. The parties may resubmit the same letter of intent after its expiration.

3.2.5 Public Record. Letters of intent filed with the department shall be made available to the public, including a timely posting on the department's Division of Licensing and Regulatory Services website.

3.3 COPA Application. The parties to a cooperative agreement may apply for a certificate by filing with the department's Division of Licensing and Regulatory Services, an original and one copy of the department-approved COPA application form with all required documentation, and payment of the application fee (Section 2.11.1). See 22 M.R.S.A. §1844 (2) (B).

3.3.1 Cooperative Agreement. The application must include a signed copy of the original cooperative agreement and must state all consideration passing to any party under the agreement. See 22 M.R.S.A. §1844 (2) (C).

3.3.2 Copies of COPA Application. The applicant must submit one copy of the application and all accompanying materials to the Office of the Attorney General and to the Governor's Office of Health Policy and Finance or its successor at the time the application is filed with the department's Division of Licensing and Regulatory Services. See 22 M.R.S.A. §1844 (2) (D).

3.3.3 Content of Application. A COPA application must describe with specificity how the cooperative agreement meets each of the requirements set out in Section 4 of these rules. A statement that the cooperative agreement meets the requirements without supporting facts backed by relevant documentation and analysis constitutes sufficient cause to deny the COPA application. An application must contain at least the following information.

3.3.3.1 A detailed description from the parties' perspective of the cooperative agreement including identification of all the parties and each party's responsibilities and obligations.

3.3.3.2 A description of the nature and scope of the cooperation that is required by each party to the agreement.

3.3.3.3 A detailed description of any merger, lease, change of ownership or other acquisition or change in control of the assets of any party to the cooperative agreement.

3.3.3.4 A detailed description of potential benefits of the cooperative agreement in accordance with Section 4.3 of these rules.

3.3.3.5 A detailed description of potential disadvantages of the cooperative agreement in accordance with Section 4.4 of these rules.

3.3.3.6 A detailed description of any monetary or other consideration passing to any party under the cooperative agreement.

3.3.3.7 A detailed statement describing whether and to what extent the cooperative agreement may change the existing services of a hospital or healthcare provider.

3.3.3.8 A detailed description of any shared services.

3.3.3.9 A detailed description of any obligation for future negotiations.

3.3.3.10 A detailed description of the total cost resulting from the cooperative agreement and the costs to be incurred by categories, including but not limited to consultants, capital costs, and management costs, including identification of any costs associated with the implementation of the cooperative agreement including documentation of the availability of the necessary funds. Describe what part of the cost is borne by each party.

3.3.3.11 A detailed description of the following ownership information for each party to the cooperative agreement:

3.3.3.11.1 The name of each party;

3.3.3.11.2 The address and other contact information of each party;

3.3.3.11.3 The complete title of the governing body of each party (if any);

3.3.3.11.4 The name, title, address and other contact information of the presiding officers of the governing body of each party;

3.3.3.11.5 The name, mailing address and other contact information of any person that has an *ownership interest in any of the parties* filing a COPA application, when the ownership interest is 5% or more;

3.3.3.11.6 The name, mailing address and other contact information of any person that is *owned by any of the parties* filing a COPA application when the ownership interest is 5% or more;

3.3.3.11.7 The name, mailing address and other contact information of any person that does not have an ownership interest in any of the parties filing a COPA application, and is not owned by any of the parties filing a COPA application, that may have *an agreement, contract, option, understanding, intent or other arrangement* with any party to a COPA application that may have a financial or operational impact on the cooperative agreement.

3.3.3.11.8 Submit the following information for each person identified in Sections 3.3.3.11.5, 3.3.3.11.6 and 3.3.3.11.7 of these rules:

3.3.3.11.8.1 A schedule of percent and type of ownership of each person identified in Sections 3.3.3.11.5 and 3.3.3.11.6 of these rules;

3.3.3.11.8.2 A copy of any agreement, contract, option, understanding, intent, or other arrangement identified in Section 3.3.3.11.7 of these rules.

3.3.3.11.8.3 The name, mailing address and other contact information of any related party (Section 1.14) of those identified in Sections 3.3.3.11.5, 3.3.3.11.6 and 3.3.3.11.7 of these rules:

3.3.3.11.8.4 The name, title, address and other contact information of the presiding officers of the governing body of each entity identified in Sections 3.3.3.11.5, 3.3.3.11.6 and 3.3.3.11.7 of these rules;

3.3.3.11.8.5 A detailed description of any shared services between any of the parties to the COPA application and any person identified in Sections 3.3.3.11.5, 3.3.3.11.6 and 3.3.3.11.7 of these rules

that may impact the cooperative agreement;

3.3.3.11.8.6 A detailed description of any obligation for future negotiations between any of the parties to the cooperative agreement and any person identified in Sections 3.3.3.11.5, 3.3.3.11.6 and 3.3.3.11.7 of these rules that may have a financial or operational impact on the cooperative agreement;

3.3.3.11.8.7 A detailed description of any merger, lease, acquisition or change of ownership or other change in control of the assets of any person identified in Sections 3.3.3.11.5, 3.3.3.11.6 and 3.3.3.11.7 of these rules that may have a financial or operational impact on the cooperative agreement; and

3.3.3.11.8.8 A detailed description of any monetary or other consideration passing between any party to the cooperative agreement and any person identified in Sections 3.3.3.11.5, 3.3.3.11.6 and 3.3.3.11.7 of these rules that may have a financial or operational impact on the cooperative agreement.

3.3.3.12 A detailed description documenting and demonstrating that the likely benefits accruing from the cooperative agreement outweigh the likely disadvantages attributable to a reduction in competition likely to result from the cooperative agreement. A Health Economic Study conducted by an economist experienced in the field of health economics shall be provided and shall include a quantitative analysis of the evidence presented including references to the methodology employed, experience of the economist and the statistical significance of the assertions. The Study is the responsibility of the applicant to present and includes but is not limited to the economic, administrative, and patient impact of the agreement as it applies to the following:

3.3.3.12.1 The effectiveness of the proposed action including documentation of:

3.3.3.12.1.1 Resource allocation implications and the cost benefit of the proposed action (Cost Benefit Analysis); and

3.3.3.12.1.2 Cost effectiveness of the proposed action.

3.3.3.12.2 The efficiency of the proposed action:

3.3.3.12.2.1 a description of how the cooperative agreement will foster cost containment, eliminate duplicate services or otherwise positively impact the health care system.

3.3.3.12.3 The equity of the proposed action including:

3.3.3.12.3.1 a description of how the cooperative agreement will reduce competition, reduce patient choice, or otherwise negatively impact the health care system; and

3.3.3.12.3.2 Consumer views of the proposed action.

3.3.3.12.4 The Study should draw from the following types of statistical data:

3.3.3.12.4.1 Healthcare finance data

3.3.3.12.4.2 Epidemiological data

3.3.3.12.4.3 Cost of care data

3.3.3.12.4.4 Demographic data

3.3.3.12.4.5 Socioeconomic data

3.3.3.12.4.6 Comparative data

3.3.3.13 A detailed description and discussion of alternatives that have been considered and the advantages and disadvantages of each alternative. See 22 M.R.S.A. §1844 (5) (B) (5).

3.3.3.14 A detailed description and discussion of any improvements in patient access and any problems patients may experience, such as costs, availability, or accessibility, upon initiation of the cooperative agreement.

3.3.3.15 A detailed description of the current health service area of each party to the cooperative agreement and a description of the proposed health service area upon initiation of the cooperative agreement. This shall include primary and secondary service areas for both inpatients and outpatients

3.3.3.17 A detailed description of the current market share of each party to the cooperative agreement and a description of the proposed market share upon initiation of the cooperative agreement.

3.3.3.18 A copy of the current annual budget for each party to the cooperative agreement and a three-year projected budget for all parties after the initiation of the cooperative agreement. The budgets must be in sufficient detail so as to determine the fiscal impact of this cooperative agreement on each party. The budgets must be prepared in conformity with Generally Accepted Accounting Principles (GAAP) and all assumptions used must be documented.

3.3.3.19 Detailed documentation that the cooperative agreement is economically feasible both immediately and long term. Describe the impact that the cooperative agreement will have on costs per unit of service.

3.3.3.20 Detailed comparison of current and projected utilization data and associated changes in revenue, and documentation of the verifiable data source or methodology of this comparison..

3.3.3.21 A detailed description of how the cooperative agreement enhances or restricts health care services to MaineCare patients, Medicare patients, patients eligible for free care under 22 M.R.S.A. §1716, or patients who are unable to pay for health care services.

3.3.3.22 The name, address, telephone number and other contact information for the party responsible for completing future reports who may be

contacted by the department to monitor the implementation of the cooperative agreement.

3.3.3.23 A timetable for implementing all components of the cooperative agreement.

3.3.3.24 The department reserves the right to request additional information from the parties at any time prior to issuing a final decision if the department determines that such information may assist the department in its determination of whether a cooperative agreement meets the requirements set out in Section 4 of these rules.

3.4 Public Notice of COPA Filing. Within 10 business days of the filing of a COPA application, the department shall give public notice of the filing in compliance with the following:

3.4.1 The department shall publish a notice of the filing of a COPA application in a newspaper of general circulation in Kennebec County and in a newspaper published within the health service area in which the cooperative agreement would be effective. See 22 M.R.S.A. §1844 (3) (A).

3.4.2 The notice shall include at least the following information:

3.4.2.1 A brief description of the cooperative agreement.

3.4.2.2 A description of the department's review schedule and process, and if a public hearing is scheduled, the information required pursuant to Section 3.8.2 of these rules.

3.4.2.3 A statement that copies of the application, and records pertaining to it, may be examined by the public pursuant to Section 3.7 of these rules. See 22 M.R.S.A. §1844 (3) (C).

3.4.2.4 A statement that any person may submit written comments pursuant to Section 3.6 of these rules.

3.4.3 The department shall mail copies of the application and letter of intent, if any, to all persons on the department's interested parties mailing list (Section 2.14) who request notification on a department-approved form when a COPA application or letter of intent is filed. See 22 M.R.S.A. §1844 (3) (B).

3.5 Initial Meeting. Within 20 business days of the date of publication of the notice of the filing of a COPA application, the parties filing the COPA application shall attend an

initial meeting with the department staff in order to assist the department in understanding the parties' collaborative agreement, letter of intent and application.

3.5.1 The department shall provide timely written or electronic notice of the initial meeting to all approved intervenors (Section 2.10.1), who shall be invited to attend and participate in this meeting.

3.5.2 The department may limit by time or subject matter the participation of intervenors at the initial meeting for the sake of efficiency and instead defer such participation until the public hearing set out in Section 3.8 of these rules.

3.5.3 The initial meeting shall be electronically recorded and included in the records of the department maintained with regard to the application.

3.6 Public Comments. Any person may submit written comments to the department concerning the COPA application within 30 calendar days after the date of publication of the public notice of the COPA filing. See 22 M.R.S.A. §1844 (4) (B).

3.6.1 The department shall provide copies of all comments to the Office of the Attorney General and the Governor's Office of Health Policy and Finance or its successor. See 22 M.R.S.A. §1844 (4) (C).

3.7 Access to COPA Records. Copies of the application and all accompanying materials filed by the applicant, public comments, department records maintained with regard to the COPA application, and copies of the letter of intent filed for a merger may be examined by any person during business hours at the Augusta office of the Division of Licensing and Regulatory Services. See 22 M.R.S.A. §1844 (2).

3.7.1 The materials specified in Section 3.7 of these rules will be treated as public records to the extent provided by the Maine Freedom of Access Act.

3.7.2 If a person submitting material specified in Section 3.7 of these rules claims a trade secret, the submitter must label the material as a trade secret and identify any harm to the submitter by the disclosure of the material as a public record.

3.7.3 Should the department receive a request to inspect and/or copy materials claimed as trade secret, the department will notify the submitter prior to disclosing such materials.

3.8 Public Hearing. The department may hold a public hearing when it determines a public hearing is appropriate. See 22 M.R.S.A. §1844 (4) (D) (1).

3.8.1 The department shall hold a public hearing if five (5) or more persons who are residents of the State and who are from the health service area to be served by the COPA application submit a written request that a hearing be held.

3.8.1.1 The written request must be received by the department no later than 30 calendar days after the date of publication of the public notice of the COPA filing (Section 3.4). See 22 M.R.S.A. §1844 (4) (D) (2).

3.8.2 If a public hearing is held, a notice shall be published by the department in a newspaper of general circulation in Kennebec County and in a newspaper published within the service area in which the cooperative agreement would be effective. See 22 M.R.S.A. §1844 (3) (A). The notice shall include at least the following information:

3.8.2.1 The date, time and location of the public hearing.

3.8.2.2 A brief description of the proposed COPA project.

3.8.2.3 A statement that written comments shall be accepted by the department for 10 business days following the public hearing.

3.8.2.4 A statement that copies of the application, and records pertaining to it, may be examined by the public pursuant to Section 3.7 of these rules.

3.8.3 If a public hearing is held, it shall be conducted by department personnel responsible for the administration of the COPA laws and rules.

3.8.4 If a public hearing is held, an electronic or stenographic record of the public hearing must be kept by the department as part of the COPA application record. See 22 M.R.S.A. §1844 (4) (D) (3).

SECTION 4. REVIEW PROCESS

4.1 **Review by Department**. The department shall review and evaluate the COPA application in accordance with the standards set forth in these rules. See 22 M.R.S.A. §1844 (4) (A).

4.2 **Standard for Approval: Benefits Outweigh Disadvantages.** The department shall issue a certificate for a cooperative agreement if it determines that the applicants have demonstrated by a preponderance of the evidence that the likely benefits resulting from the agreement outweigh any disadvantages attributable to a reduction in competition likely to result from the cooperative agreement. See 22 M.R.S.A. §1844 (5).

4.3 **Potential Benefits Evaluated.** In evaluating the potential benefits of a cooperative agreement, the department shall consider whether one or more of the following benefits are likely to result from the cooperative agreement:

4.3.1 Enhancement of the quality of care provided to citizens of the State;

4.3.2 Preservation of hospitals or other healthcare providers and related facilities in geographical proximity to the communities traditionally served by those facilities;

4.3.3 Gains in the cost efficiency of services provided by the hospitals or other healthcare providers;

4.3.4 Improvements in the utilization of hospital or other healthcare resources and equipment;

4.3.5 Avoidance of duplication of hospital or other healthcare resources; and

4.3.6 Continuation or establishment of needed educational programs for healthcare providers. See 22 M.R.S.A. §1844 (5) (A).

4.4 **Potential Disadvantages Evaluated.** The department's evaluation of any disadvantages attributable to a reduction in competition likely to result from a cooperative agreement may include, but is not limited to, the following factors:

4.4.1 The extent of any likely adverse impact on the ability of health maintenance organizations, preferred provider organizations, managed healthcare service agents or other healthcare payors to negotiate optimal payment and service arrangements with hospitals or other healthcare providers;

4.4.2 The extent of any disadvantages attributable to reduction in competition among covered entities or other persons furnishing goods or services to, or in

competition with, covered entities that is likely to result directly or indirectly from the cooperative agreement;

4.4.3 The extent of any likely adverse impact on patients or clients in the quality, availability and price of healthcare services;

4.4.4 The extent of any likely adverse impact on the access of persons enrolled in in-state educational programs for health professions to existing or future clinical training programs; and

4.4.5 The availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition likely to result from the cooperative agreement. See 22 M.R.S.A. §1844 (5) (B).

4.5 Enforceable Conditions. The issued certificate may include the following:

4.5.1 Conditions to Ameliorate Disadvantages. In evaluating a cooperative agreement pursuant to the standards in Sections 4.4 of these rules, the department shall consider the extent to which any likely disadvantages may be ameliorated by any reasonably enforceable conditions (Section 1.8) that the department may include in the issued certificate to ameliorate any likely disadvantages of the type specified in Section 4.4 of these rules. See 22 M.R.S.A. §1844 (5) (C) (1).

4.5.2 Conditions to Enhance Benefits. In evaluating a cooperative agreement, the department shall consider the extent to which the likely benefits or favorable balance of benefits over disadvantages may be enhanced by any reasonably enforceable conditions (Section 1.8) that the department may include in the issued certificate if the additional conditions are proposed by the COPA applicants, designed to achieve public benefits, which may include but are not limited to the benefits listed in Section 4.3 of these rules. See 22 M.R.S.A. §1844 (5) (C) (2).

4.5.3 Continuing Supervision Plan. The department may include a continuing supervision plan in the issued certificate, in accordance to Section 6 of these rules.

SECTION 5. DEPARTMENT DECISION

5.1 Decision Based on Record. The department's decision shall be based on the record.

5.1.1 Record. The record includes the application for a certificate and all accompanying materials filed by the applicant, public comments, documents received by or created by the department with regard to the COPA application, and the letter of intent and related documents, if applicable. See 22 M.R.S.A. §1844 (2).

5.2 Preliminary Decision. At least 5 business days prior to issuing the final decision, the department shall issue a written preliminary decision on the COPA application. The preliminary decision shall set forth the basis for the decision. The department shall provide copies of the preliminary decision to the applicants, the Office of the Attorney General, the Governor's Office of Health Policy and Finance or its successor and all persons who requested notification from the department (Section 2.14). See 22 M.R.S.A. §1844 (4) (F).

5.2.1 In issuing a preliminary decision on a COPA application, the department shall make specific findings as to the nature and extent of any likely benefits and disadvantages in accordance with Section 4 of these rules. See 22 M.R.S.A. §1844 (5).

5.3 Final Decision. The department shall issue a written final decision to grant or deny a COPA application no less than 40 calendar days and no more than 90 calendar days after the filing of the application. The final decision shall set forth the basis for the decision. The department shall provide copies of the final decision to the applicants, the Office of the Attorney General, the Governor's Office of Health Policy and Finance or its successor, and all persons who requested notification from the department (Section 2.14). See 22 M.R.S.A. §1844 (4) (F).

5.3.1 In issuing a final decision on a COPA application, the department shall make specific findings as to the nature and extent of any likely benefits and disadvantages in accordance with Section 4 of these rules. See 22 M.R.S.A. §1844 (5).

5.4 The Certificate. When the final decision is to approve the COPA application, the department's written decision shall be considered the "certificate."

5.5 Judicial Review. An applicant, certificate holder or intervenor aggrieved by (1) a final decision of the department granting or denying an application for a certificate; (2) the department's refusal or failure to act on an application; or (3) the department's imposition of additional conditions or measures with regard to a certificate is entitled to judicial review of the final decision in accordance with the Maine Administrative Procedure Act.

See 22 M.R.S.A. §1847.

SECTION 6. CONTINUING SUPERVISION

6.1 Continuing Supervision. The department's continuing supervision of certificate holders may consist of periodic reports, supervisory reviews and additional supervisory activities. See 22 M.R.S.A. §1845.

6.2 Six-Month Reports. Unless otherwise directed in the issued certificate, certificate holders must submit a written report every six months, after the date the certificate is issued, to the department's Division of Licensing and Regulatory Services on the extent of the benefits realized and compliance with other terms and conditions of the issued certificate. The report shall be submitted on department-approved forms and contain all required documentation.

6.2.1 Copies of Reports. Certificate holders must submit copies of the report and all accompanying materials to the Office of the Attorney General and the Governor's Office of Health Policy and Finance or its successor at the time the report is filed with the department's Division of Licensing and Regulatory Services.

6.3 Comments from Office of the Attorney General and the Governor's Office of Health Policy and Finance. Within 30 calendar days of the date of the department's receipt of the report (Section 6.2), the Office of the Attorney General and the Governor's Office of Health Policy and Finance or its successor may submit to the department comments on the report. See 22 M.R.S.A. §1845 (1).

6.3.1 Department Review of Comments and Report. The department shall consider any comments on the report submitted by the Office of the Attorney General and the Governor's Office of Health Policy and Finance or its successor in the course of its evaluation of the report.

6.4 Department Findings. Within 60 calendar days of the date of receipt of the holder's report, the department shall:

6.4.1 Prepare written findings regarding the report, including the department's response to any comments from the Office of the Attorney General and the Governor's Office of Health Policy and Finance or its successor.

6.4.2 Determine whether to institute additional supervisory activities and notify the certificate holders. See 22 M.R.S.A. §1845 (1).

6.4.3 Submit copies of its findings and notice to institute additional supervisory activities, if applicable, to the Office of the Attorney General and the Governor's Office of Health Policy and Finance or its successor.

6.5 Additional Supervisory Activities. The department shall conduct additional supervisory activities:

6.5.1 Whenever requested by the Office of the Attorney General, or the Governor's Office of Health Policy and Finance or its successor; or

6.5.2 Whenever the department, in its discretion, determines additional supervisory activities are appropriate; and

6.5.3 For certificates *not* involving mergers, at least once in the first 18 months after the transaction described in the cooperative agreement has closed; and

6.5.4 For certificates involving mergers at least once between 12 and 30 months after the transaction described in the cooperative agreement has closed. See 22 M.R.S.A. §1845 (2) (A).

6.6 Department Discretion: Conduct Additional Supervisory Activities. At its discretion, the department may conduct additional supervisory activities by:

6.6.1 Soliciting and reviewing written submissions from the certificate holders, the Office of the Attorney General, the Governor's Office of Health Policy and Finance or its successor, or the public;

6.6.2 Conducting a hearing in accordance with Section 6.8 of these rules; or

6.6.3 Using any alternative procedures appropriate under the circumstances. See 22 M.R.S.A. §1845 (2) (B).

6.7 Standards Governing Additional Supervisory Activities. A department decision regarding additional supervisory activities is governed by the following standards:

6.7.1 Lack of Substantial Compliance. If the department determines that the certificate holders are not in substantial compliance with any conditions included in the issued certificate or in a consent decree entered into by the department, the department may at its discretion:

6.7.1.1 Additional Conditions. Impose additional conditions to secure compliance with any conditions in the issued certificate or consent decree; or

6.7.1.2 Notice to Compel. Issue a written notice to the certificate holders compelling compliance with any conditions included in the issued certificate or consent decree.

6.7.1.3 Department Enforcement Action or Court Ordered Revocation. If after 30 calendar days the department determines that the "Notice to Compel Compliance" was not effective in securing compliance with the conditions, the department may impose any additional enforcement measures authorized by law to compel compliance with the conditions; or seek a court order revoking the issued certificate in accordance with Section 7.7 of these rules. See 22 M.R.S.A. §1845 (3) (A).

6.7.2 Changed or Unanticipated Circumstances. If the department determines during any supervisory activities that, as a result of changed or unanticipated circumstances(Section 1.15) , the benefits resulting from the activities authorized under the issued certificate and the unavoidable costs of revoking the issued certificate are outweighed by disadvantages attributable to a reduction in competition, the department may:

6.7.2.1 Impose additional conditions to ameliorate any disadvantages attributable to any reduction in competition; or

6.7.2.2. Seek a court order revoking the issued certificate in accordance with Section 7.7 of these rules. See 22 M.R.S.A. §1845 (3) (B).

6.7.3 Notice: Imposition of Additional Conditions or Measures. At least 10 business days prior to imposition, the department shall give certificate holders written notice of its decision to impose any additional conditions or measures to the issued certificate.

6.7.3.1 Right to Administrative Hearing. Certificate holders may request a hearing in accordance with Section 6.8 of these rules to contest the department's decision to impose additional conditions or measures. See 22 M.R.S.A. §1845 (2) (C).

6.7.4 Remedial Order: Burden of Proof. The burden of proof is on the parties seeking any remedial order. A remedial order may not be issued unless the basis for it is established by a preponderance of the evidence. See 22 M.R.S.A. §1845 (2) (D).

6.8 Administrative Hearing. Holders of a certificate may request an administrative hearing in accordance with 5 M.R.S.A chapter 375, subchapter 4, within 10 days of the date of receipt of notice of the following department actions:

6.8.1 Department decision to impose additional conditions or measures to an issued COPA. See 22 M.R.S.A. §1845 (2) (C).

6.8.2 Department decision to institute additional supervisory activities. See 22 M.R.S.A. § 1845(2)(B)(2).

SECTION 7. ENFORCEMENT PROCEDURES

7.1 Enforcement. The department or the Attorney General is authorized to impose one or more of the following enforcement actions or any other actions authorized by law.

7.2 Enforcement of Final Department Action. The Attorney General may file an action in Superior Court to enforce any final action taken by the department regarding COPA application proceedings, or as a result of additional supervisory proceedings. See 22 M.R.S.A. Sections 1844 (7) and 1845 (5).

7.3 Investigative Powers. The Attorney General, at any time after an application or letter of intent is filed, may require by subpoena the attendance and testimony of witnesses and the production of documents in Kennebec County, or the county in which the applicants are located, for the purpose of investigating whether the cooperative agreement satisfies the standards set forth in these rules.

7.3.1 All documents produced and testimony given to the Attorney General are confidential.

7.3.2 The Attorney General may seek an order from the Superior Court compelling compliance with a subpoena issued under Section 7.3 of these rules. See 22 M.R.S.A. §1848 (1).

7.4 Enjoin Operation of Cooperative Agreement. The Attorney General may seek to enjoin the operation of a cooperative agreement for which an application for a certificate has been filed by filing suit against the parties to the cooperative agreement in Superior Court.

7.4.1 Filing Court Action. The Attorney General may file an action before or after the department acts on the application for a certificate; however, the action must be brought no later than 40 days following the date the department approved the application for a certificate.

7.4.2 Time Periods Tolled. After the filing of a court action, the time periods specified for departmental action pursuant to Sections 3 and 5 of these rules are tolled until the court action is dismissed by the Attorney General or the Superior Court orders the department to take further action. See 22 M.R.S.A. §1848 (2).

7.4.3 Automatic Stay of Issued Certificate. Upon the filing of a complaint under Section 7.4 of these rules, the department's approval of a certificate, if previously issued, must be stayed unless the court orders otherwise or until the action is concluded. The Attorney General may apply to the court for any temporary or preliminary relief to enjoin the implementation of the cooperative agreement pending final disposition of the case.

7.4.3.1 COPA applicants may apply to the Superior Court for relief from the stay.

7.4.3.2 Relief may be granted only upon a showing of compelling justification. See 22 M.R.S.A. §1848 (3).

7.4.4 Burden of Proof: Benefits Outweigh Disadvantages. In an action brought under Section 7.4 of these rules, the applicants for a certificate bear the burden of establishing by a preponderance of the evidence that in accordance with Section 4 of these rules the likely benefits resulting from the cooperative agreement and any conditions proposed by the applicants outweigh any disadvantages attributable to a reduction in competition that may result from the cooperative agreement.

7.4.4.1 In assessing disadvantages attributable to a reduction in competition likely to result from the cooperative agreement, the court may draw upon the determinations of federal and Maine courts concerning unreasonable restraint of trade under 15 United States Code, Sections 1 and 2, and 10 Maine Revised Statutes, Sections 1101 and 1102. See 22 M.R.S.A. §1848 (4).

7.5 Enforcement of Certificate: No Merger. If the certificate holders in a cooperative agreement not involving a merger are not in substantial compliance (1) with the conditions included in the certificate, or (2) with a consent decree, or (3) with the conditions or measures added pursuant to additional supervisory activities, the Attorney General may seek an order from the Superior Court compelling compliance with such conditions or measures or other appropriate equitable remedies.

7.5.1 Additional Equitable Remedies. If the Superior Court grants relief and that relief is not effective in securing compliance with the conditions or measures, the Superior Court may impose additional equitable remedies, including:

7.5.1.1 The exercise of civil contempt powers; or

7.5.1.2 Revocation of the certificate upon a determination that advantages to be gained by revoking the certificate outweigh the unavoidable costs resulting from a revocation of the certificate. See 22 M.R.S.A. §1848 (6) (A).

7.5.2 Burden of Proof. In an action brought under Section 7.5 of these rules, the Attorney General has the burden of proving by a preponderance of the evidence the basis for any equitable remedies requested by the Attorney General and adopted by the Superior Court. See 22 M.R.S.A. §1848 (6) (C).

7.6 Enforcement of Certificate: Merger. If the certificate holders in a cooperative agreement involving a merger are not in substantial compliance (1) with the conditions included in the certificate, or (2) with a consent decree, or (3) with the conditions or measures added pursuant to additional supervisory activities, the Attorney General may seek an order from the Superior Court compelling compliance with such conditions or measures.

7.6.1 Additional Equitable Remedies. If the certificate holders to the merger fail to comply with any court order compelling compliance with the conditions or measures, the Superior Court may impose additional equitable remedies to secure compliance with its orders, including:

7.6.1.1 The exercise of civil contempt powers; or

7.6.1.2 Appointment of a receiver. See 22 M.R.S.A. §1848 (6) (B).

7.6.2 Divestiture of Assets. If the additional judicial measures in Section 7.6.1 of these rules are not effective in securing compliance with the conditions or measures and the Superior Court determines that the advantages to be gained by divestiture outweigh the unavoidable costs of requiring divestiture, the Superior Court may revoke the certificate and order divestiture of assets. See 22 M.R.S.A. §1848 (6) (B).

7.6.3 Burden of Proof. In an action brought under Section 7.6 of these rules, the Attorney General has the burden of proving by a preponderance of the evidence the basis for any equitable remedies requested by the Attorney General and adopted by the Superior Court. See 22 M.R.S.A. §1848 (6) (C).

7.7 Revocation of the Certificate.

7.7.1 Revocation by Department. The department is authorized to seek a court order revoking a certificate under circumstances specified in Sections 6.7.1 and 6.7.2 of these rules regarding additional supervisory activities.

7.7.1.1 The standards for adjudication to be applied by the court are the same as in Sections 7.4.4, 7.5.2, and 7.6.3 of these rules: that is, the department has burden of proof by a preponderance of the evidence, except pursuant to Section 7.7.2.1.2.

7.7.1.2 In assessing disadvantages attributable to a reduction in competition likely to result from the cooperative agreement, the court may draw upon the determinations of federal and Maine courts concerning unreasonable restraint of trade under 15 United States Code, Sections 1

and 2, and 10 Maine Revised Statutes, Sections 1101 and 1102. See 22 M.R.S.A. §1845 (4).

7.7.2 Revocation by Attorney General. If, at any time after the 40-day period specified in Section 7.4.1 of these rules, the Attorney General determines that, as a result of changed circumstances or unanticipated circumstances (Section 1.15), the benefits resulting from a certified cooperative agreement or a consent decree entered under Section 7.9 of these rules, do not outweigh any disadvantages attributable to a reduction in competition resulting from the cooperative agreement, the Attorney General may file suit in the Superior Court seeking to revoke the certificate of public advantage. See 22 M.R.S.A. §1848 (5).

7.7.2.1 The standard for adjudication for an action under this section of the rules is as follows.

7.7.2.1.1 Except as provided in Section 7.7.2.1.2 of these rules, the Attorney General has the burden of establishing by a preponderance of the evidence that, as a result of changed circumstances or unanticipated circumstances, the benefits resulting from the cooperative agreement and the unavoidable costs of revoking the certificate are outweighed by disadvantages attributable to a reduction in competition resulting from the cooperative agreement. See 22 M.R.S.A. §1848 (5) (A).

7.7.2.1.2 If the Attorney General first establishes by a preponderance of the evidence that the certificate was obtained as a result of material misrepresentation to the department or the Attorney General or as the result of coercion, threats or intimidation toward any party to the cooperative agreement, then the parties to the agreement bear the burden of establishing by clear and convincing evidence that the benefits resulting from the agreement and the unavoidable costs of revoking the agreement outweigh the disadvantages attributable to any reduction in competition resulting from the cooperative agreement. See 22 M.R.S.A. §1848 (5) (B).

7.8 Department Proceedings Stayed: No Further Department Action. After the Attorney General files a court action in accordance with these rules, the department may not take any further action under these rules until the court action is dismissed by the Attorney General or the Superior Court orders the department to take further action. See 22 M.R.S.A. Sections 1844 (7), 1845 (5), and 1848 (2), (7).

7.9 Resolution by Consent Decree. The Superior Court may resolve any action brought by the Attorney General under these rules by entering an order with the consent of the parties.

7.9.1 The consent decree may contain any conditions authorized by Section 4, or conditions or measures authorized by Section 6 of these rules.

7.9.2 The consent decree may not be filed with the Superior Court until 30 days after the filing of the application for a certificate in accordance with Section 3.3 of these rules.

7.9.3 Upon entry of the consent decree order by the court, the parties to the cooperative agreement have the lawful conduct protection specified in Section 2.5 of these rules and the cooperative agreement has the effectiveness of a lawful agreement. See 22 M.R.S.A. §1848 (9).

7.10 Reasonable Attorney Fees and Costs: Attorney General Prevails. If the Attorney General prevails in an action taken pursuant to Sections 7.3.2 (subpoena compliance), 7.4 (enjoin operation of cooperative agreement), 7.5, 7.6 (enforcement of certificate), 7.7.2 (revocation of certificate), or 7.9 (consent decree) of these rules, the Attorney General and the department are entitled to an award of the reasonable costs of deposition transcripts incurred in the course of the investigation or litigation and reasonable attorney's fees, expert witness fees and court costs incurred in litigation. See 22 M.R.S.A. §1848 (8).

7.11 Reasonable Attorney Fees and Costs: Department Prevails. If the department prevails in an action taken pursuant to Section 6 (continuing supervision), or 7.7.1 (revocation of certificate) of these rules, the department and the Attorney General are entitled to an award of the reasonable costs of deposition transcripts incurred in the course of the action and reasonable attorney's fees, expert witness fees and court costs incurred in the action. See 22 M.R.S.A. §1845 (6).

Statutory Authority

22 M.R.S.A. Chapter 405-A, the Hospital and Health Care Provider Cooperation Act,
(PL 2005, c 670, effective August 23, 2006. Replaced the repealed 22 M.R.S.A. Chapter 405-D, Hospital Cooperation Act, enacted PL 1991, c 814; amended PL 1995, c 583)
22 M.R.S.A. §42
22-A M.R.S.A. §205

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